

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**1. HANS HALBERSTADT
Plaintiff,
v.**

**1. CAREER CONFIDENTIAL, LLC
2. PEGGY IRENE MCKEE**

Defendants.

Case No. 19-CV-76-SPS

COMPLAINT

Jurisdiction

1.

This Court has jurisdiction under 17 U.S.C. §§ 101 et seq. and 28 U.S.C. §§ 1331 and 1338.

Venue

2.

Venue is appropriate in this Court pursuant to 28 U.S.C. §§ 1391 and 1400 because the Defendants' business is based in this district, Defendants actively market their services within the district, and injury has occurred within the district.

Parties

3.

Plaintiff Hans Halberstadt ("Halberstadt"), an individual, is a photographer who owns copyrights to various images.

4.

Defendant Career Confidential, LLC ("Career Confidential") is a limited liability company

formed under the laws of the State of Texas with its principal place of business in Okfuskee County, Oklahoma.

5.

Defendant Peggy Irene McKee (“McKee”) is an individual who resides in Okfuskee County, Oklahoma.

Background

6.

Halberstadt is a professional photographer based in San Jose, California who specializes in the photography of military and law enforcement images. Over the years, he has created at great expense a substantial library of images and earns his living by licensing the images for commercial and editorial use. Halberstadt is also a disabled veteran whose disability was incurred while serving his country as a helicopter door gunner during the Vietnam Conflict.

7.

Career Confidential solicits payment from persons seeking advice on how to find employment and operates a website to advertise its services. The company claims to offer products and services to job seekers in 90 different countries and boasts of having more than 23,000 lifetime clients. The website makes commercial use of images of the type that Halberstadt licenses for a fee.

8.

McKee is a founding member of Career Confidential and holds herself out as its “CEO.” McKee is involved in the day-to-day operations of Career Confidential, which charges job seekers \$400 per hour for the services of McKee.

9.

Career Confidential targets, among other demographic groups, members and former members

of the armed forces who desire to transition to civilian employment. McKee encourages such service members to utilize her services.

10.

In 2014, Halberstadt created two images in his studio using a paid model who was wearing clothing provided by Halberstadt. The model is standing in front of a neutral background so that the images may be readily combined digitally to form a composite image. One of the images depicts a man in a US Navy uniform and the other depicts the same man in a business suit. Both images were registered with the United States Copyright Office on January 16, 2015, which issued Mr. Halberstadt registration certificate no. Vau-1-242-025. The two images were combined digitally to produce a composite image showing the man transitioning from dressed in uniform to dressed in business attire. The images are presented below.



11.

At some time after the date of registration of the images described in paragraph 10, Career Confidential posted the composite image on the home page of its website, adjacent to text directed at getting persons leaving military service to download one of Career Confidential's products.

12.

Despite using the composite image on the home page of its website for the purpose of marketing its services, Career Confidential neither obtained permission from Halberstadt nor compensated him for the use of the composite image.

13.

McKee had the right and ability to control and supervise the infringing use of the image on the home page of the Career Confidential website. As a founding member and “CEO” of the company, she received a direct financial benefit from the infringement of the image.

First Claim for Relief

(Copyright Infringement)

14.

Plaintiff incorporates by reference all the allegations of paragraphs 1 through 13.

15.

In July 2018, Halberstadt discovered that Career Confidential was making an unauthorized use of the composite image on the home page of the Career Confidential website.

16.

Halberstadt has complied in all respects with 17 U.S.C. §§ 101 et seq., and secured the exclusive rights and privileges in and to the copyrights of the above-referenced works. He has described in paragraph 10.

17.

Defendants’ conduct has violated the exclusive rights belonging to Halberstadt including without limitation his rights under 17 U.S.C. § 106.

18.

Based on information and belief, Halberstadt alleges that, as a direct and proximate result of their wrongful conduct, Defendants have realized profits from the use of the composite image. Accordingly, Plaintiff seeks an award of damages, costs, and attorney fees pursuant to 17 U.S.C. §§ 504 and 505.

19.

Defendants have willfully engaged in the acts complained of in conscious disregard of the rights of Halberstadt. He is therefore entitled to the maximum statutory damages allowable.

Relief Requested

THEREFORE, Plaintiff prays for judgment against Defendants as follows:

- A. Declaring that Defendants' unauthorized conduct violates Plaintiff's rights pursuant to 17 U.S.C. §501;
- B. Ordering Defendants to account to Plaintiff for all gains, profits, and advantages derived by Defendants by their infringement of Plaintiff's copyrights or such damages as are proper;
- C. Awarding Plaintiff's actual or statutory damages for Defendants' copyright infringement pursuant to 17 U.S.C. § 505;
- D. That Defendants pay to Plaintiff the costs of this action and reasonable attorney's fees to be allowed to the plaintiff by the Court; and
- E. Awarding Plaintiff such other and further relief as is just and proper.

DATED: March 5, 2019

/s/Sherry Erb
Sherry Erb, OBA No. 33385
ERB LAW, PLLC
530 Court Street
Muskogee, OK 74401
918-910-5183
sherry@erblawok.com

Attorney for Plaintiff

CERTIFICATE OF ECF FILING AND SERVICE

On March 5, 2009, I caused to be filed electronically the foregoing document to the Clerk of the Court using the ECF System.

/s/ Sherry Erb